

*[Handwritten signature]*

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JAMES BRIAN PARKER,

V.

Respondent.

HONORABLE E. SCOTT COLLIER, JUDGE

Attorney at Law  
1101 Broadway Street, Suite 250  
Vancouver, Washington 98660

Telephone: (360) 735-9434

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## **I. ASSIGNMENTS OF ERROR**

- A. Assignment of Error Number One : The trial court erred in entering Findings of Fact Numbers 2, 3, and 5.(The Findings of Fact are set forth in full at Appendix “B” and incorporated herein by reference)
- B. Assignment of Error Number Two: The trial court erred in entering conclusion of law Number 2.
- C. Assignment of Error Number Three: The trial court erred in entering Conclusion of Law Number 3.
- D. Assignment of Error Number Four: The trial court erred in entering Conclusion of Law Number 4.
- E. Assignment of Error Number Five: The trial court erred in entering Conclusion of Law Number 5.
- F. Assignment of Error Number Six: The trial court erred in entering Conclusion of Law Number 6.

## **II. ISSUES PERTAINING TO ASSIGNMENTS OF ERROR:**

- A. Transfer of Elizabeth’s interest in the family home was a condition precedent to James relieving her from the mortgage obligation.

B. James relieved Elizabeth of her obligations “forthwith” under the facts and circumstances of this case.

### **III. STATEMENT OF THE CASE**

The trial court initially entered a Decree of Dissolution of Marriage dissolving the marriage of James and Elizabeth Parker on February 1, 2007. (CP Supplemental, Appendix “A”) Parties with the same surname will be referred to by first name for clarity of reference. Because the parties were unable to sell the marital residence, James began negotiating to buy Elizabeth’s interest in the property during the late Summer months of 2008. (RP-41)

On December 9, 2009 James and Elizabeth agreed to and the trial court entered an Amendment to Decree of Dissolution of Marriage and Order of Child Support. (CP Supplemental, Appendix “A”) This document is set forth in full at Appendix “A” and contains a number of conditions with which each party was required to comply.

Pursuant to the Amended Decree, James contacted Emily Mason, a loan originator at Prestige Mortgage to assist him with obtaining a loan to re-finance the marital residence in to his name alone. (RP-7 to 12) Mason

previously worked with James on two applications that she obtained funding for the loans and she worked with James on two loan applications that she was unable to obtain funding for the loans. (RP-9) Based on James' credit score and income Mason was confident that the loan application would be funded by a lender. (RP-11)

On December 1, 2008 Mason obtained approval for a \$950,000 loan through ABN Amro Bank. (RP-12, Exhibit-1) Mason needed a quit claim deed from Elizabeth to process the loan. (RP-12) The opportunity to re-finance expired mid-January, 2009. (RP-13) Although the market was declining, Mason expressed confidence that the loan would have closed because at the time banks were still funding loans based on stated income. (RP-16) James told Mason that Elizabeth would not sign the quit claim deed. (RP-34)

In 2006 James earned an annual gross income of more than \$6000,000. (RP-50) By 2007 James income had fallen, but he still earned more than \$500,000 gross annual income. (RP-51)

James requested that Elizabeth execute a quit claim deed in approximately 20 to 40 phone calls and e-mails. (RP-52) Pursuant to the Amended Decree, he promptly signed the waiver Elizabeth needed to gain

immediate access to \$415,000 from James' 401(k) retirement account. (RP-53)

Although Elizabeth apparently signed a quit claim deed on January 9, 2009, James received the quit claim deed in May, 2009 (Exhibit-4) (RP-54 to 56) James indicated that the parties never discussed escrow. (RP-66)

Elizabeth testified that she delivered the quit claim deed in April, 2009 without having her name removed from the mortgage. (RP-112) James received the excise tax affidavit signed by Elizabeth approximately July 7, 2009. (Exhibit-6) (RP-55) The quit claim deed Elizabeth executed contained errors in the legal description, thus failing to vest title in James. (RP-57) Elizabeth effectively transferred title to the marital residence to James on May 4, 2011. (RP-58) In June, 2011 James sold the residence, extinguishing the mortgage and effectively removing Elizabeth's name from the mortgage. (CP-1)

On June 16, 2011 James moved to have the \$24,773.89 held in escrow after the sale of the home released to him as separate property from the post-decree sale of a separate asset. (CP-1) The trial court heard testimony regarding the motion on August 8, 2011.

On August 26, 2011 the court entered Findings of Fact and



Conclusions of Law and Order and Judgment in favor of Elizabeth Parker.

(CP-4) From that order this appeal timely follows.

#### **IV. ARGUMENT**

This court reviews a trial court's decision following a bench trial to determine whether the findings of fact are supported by substantial evidence and whether those findings support the court's conclusions of law. Dorsey v. King County, 51 Wn. App. 664, 668-69, 754 P.2d 1255 (1988). The appellate court engages in de novo review of a trial court's classification of property as community or separate. In re Marriage of Chumbley, 150 Wn.2d 1, 5, 74 P.3d 129 (2003).

**A. Transfer of Elizabeth's interest in the family home was a condition precedent to James relieving her from the mortgage obligation.**

James respectfully disagrees with Finding of Fact Number 2 in that it states "The Amendment to the Decree of Dissolution of Marriage provides that in the event the Respondent did not forthwith relieve the Petitioner from

her obligation on the home mortgage, the above-referenced judgments should be reinstated.” (Appendix “B”)

Elizabeth’s attorney drafted the amendment to the decree and the first term of the amendment required:

“The title to the home shall be transferred to the husband in “as is” condition and he shall forthwith cause the wife’s name to be removed from the underlying mortgage, freeing her from responsibility therefrom, and in any event he shall hold her harmless from such obligations, including but not limited to any costs, attorney fees and any other loss or damage as a result of any default on the obligation.” (Appendix “A”)

A condition precedent is an event occurring after the making of a valid contract which must occur before a right to immediate performance arises. Koller v. Flerchinger, 73 Wn.2d 857, 860, 441 P.2d 126 (1968); Silverdale Hotel v. Lomas & Nettleton Co., 36 Wn. App. 762, 770, 677 P.2d 773 (1984).

Finding of Fact Number 3 (Appendix “B”) erroneously finds that Elizabeth should not have been required to execute a quit claim deed without some mechanism to insure her release from the mortgage. The parties clearly contemplated that transfer of title from Elizabeth to James had to occur before he could remove her name from the mortgage. The parties nowhere expressly state that an escrow procedure was to be utilized, nor is there any

testimony in the record that shows either party contemplated escrow.

Elizabeth delivered an unintentionally defective quit claim deed in April or May, 2009 without her name being removed from the mortgage which provides further evidence that the parties agreed that she would transfer title prior to her name being removed from the mortgage. (RP-112)

The amendment to the decree contains hold harmless language designed to protect Elizabeth and provide her a remedy in the event James defaulted on the mortgage, which further evidences her intent to transfer the property to him. (Appendix "A")

The amendment goes on to state:

"In exchange for transferring her ownership in the home to the husband and transferring all of her equity to him, the wife shall receive, from the husband's 401(k) account with Cadence Design Systems, Inc, the sum of \$415,000, such transfer to be made pursuant to QDRO's. The parties shall waive the 30 day waiting period to process the QDRO and will so instruct the plan administrator." (Appendix "A")

Again she promises to transfer ownership and equity without requiring that she first be removed from the mortgage.

James respectfully disagrees with Finding of Fact Number 5 (Appendix "B") wherein the court imposes a duty on him to facilitate a simultaneous exchange of a quit claim deed with Elizabeth's name being removed from the

mortgage. No evidence in the record or in the Amendment to the Decree supports this finding.

The plain language of the Amendment to the Decree and the evidence in the record establishes that the parties contemplated Elizabeth's transfer of her interest in the home to James prior to him removing her from the mortgage. The courts will not interpret the meaning of unambiguous contracts. Silen v. Silen, 44 Wn.2d 884, 271 P.2d 674 (1954).

**B. James relieved Elizabeth of her obligations “forthwith” under the facts of this case.**

No definition exists for the term “forthwith” within the Amendment to Decree in this case.

Our Supreme Court addressed the definition of the term in the context of interpreting the term as used in a statute where no definition of forthwith was supplied:

1        In this connection, the question arises as to the meaning of the word "forthwith," as used in Rem. Rev. Stat., §§ 590. Reference to 17 Words and Phrases (Perm. ed.) 414 *et seq.*, will disclose that the term has a variety of connotations and that in determining its meaning in a particular instance regard must be had to the nature of the act or thing to be done. It is generally held, however, that the term does not mean

"instantaneously," or "without any interval of time," but, rather, means "as expeditiously as under the circumstances, is reasonably possible." In State ex rel. Department of Finance, Budget and Business v. Thurston County, 6 Wn.2d 633, 108 P.2d 828, this court was called upon to define the word "forthwith" as used in Rem. Rev. Stat., §§ 6930 [P.C. §§ 2827]. We said:

"While the statute says that the superintendent [of the hospital for the insane] shall 'forthwith' examine the patient and determine his classification, that word must be given a reasonable construction. The term has been said to be a relative one and an elastic expression. In determining its meaning in a particular case, regard must be had to the nature of the act or thing to be determined and the circumstances of the case. So far as time is concerned, there is no precise definition of the term. Its import varies with the particular case, and will imply a longer or shorter period according to the nature of the thing to be done. 25 C.J. 998; State ex rel. Lefebre v. Clifford, 65 Wn. 313, 118 P. 40; State ex rel. Giles v. French, 102 Wn. 273, 172 P. 1156."

Williams v. Continental Sec. Corp., 22 Wn.2d 1, 8, 153 P.2d 847 (1944)

James would respectfully submit that he performed "forthwith" and as expeditiously as the circumstances in this case permitted and once Elizabeth executed a valid quit claim deed the property was sold within weeks. (CP-1)

### **C. ATTORNEY FEES**


Pursuant to RAP 18.1(b) and RCW 26.09.140, James requests an

award of reasonable attorneys fees and costs in this matter. James has had to expend considerable funds to appeal this matter.

## V. CONCLUSION

For the reasons stated above, the judgment of the trial court should be reversed and judgment entered in favor of James Parker in the amount of \$24,773.89 plus interest.

Respectfully submitted this 4<sup>th</sup> day of April, 2012,

  
SUZAN L. CLARK, WSBA #17476  
Attorney for the Appellant

## **APPENDIX “A”**

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SCOTT G. WEBER, CLERK  
CLARK COUNTY

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~~2011 JUN 26 PM 2: 35~~

~~SCOTT G. WEBER, CLERK  
CLARK COUNTY~~

SUPERIOR COURT OF WASHINGTON  
COUNTY OF CLARK

In re:

ELIZABETH MARIE PARKER

Petitioner,

and

JAMES BRIAN PARKER

Respondent.

No. 05 3 01721 7

MOTION AND DECLARATION  
AUTHORIZING RELEASE OF  
FUNDS

ORIGINAL

MOTION

COMES NOW, Respondent, JAMES PARKER, by and through his attorney of record, HOWARD H. MARSHACK, and moves this Court for an order authorizing release of funds from escrow, said funds being proceeds from the post dissolution sale of his separate property.

Respondent further seeks an award of attorney fees incurred in relation to this motion.

MOTION AND DECLARATION AUTHORIZING  
RELEASE OF FUNDS – Page 1  
(Parker/P15)

HOWARD H. MARSHACK  
Attorney at Law  
900 Washington Street, Suite 800  
Vancouver, Washington 98660  
(360) 699-0500

342  
11



1  
2 This motion is based on the records and files herein and the declaration of  
3 Respondent, James Parker.  
4

5  
6 Dated: June 16, 2011

  
HOWARD H. MARSHACK

7  
8 **DECLARATION OF JAMES PARKER**

9 I am James Parker, the respondent in this matter. I am asking the court to  
10 authorize the release of funds held at escrow, \$24,773.89.

11 The funds in escrow are some of the proceeds from the sale of a residence. The  
12 property sold in May of this year. The sale was initially held up due to judgments in this  
13 cause still being of record. The sale went through only on the condition that escrow  
14 retain the above sum. Petitioner claims these judgments should be paid. I believe they  
15 are fully satisfied. Resolution of this issue depends on the interpretation of the Amended  
16 Decree of Dissolution of Marriage entered herein on December 9, 2009.  
17

18 The Amended Decree requires the performance of several covenants; some of  
19 which I was to perform and some Petitioner was to perform. One of the covenants stated  
20 the enumerated judgments were to be deemed satisfied. These enumerated judgments  
21 are the basis for petitioner holding up distribution of sale proceeds to me. These  
22 judgments are set forth on page two (lines 10 through 12) of the Amendments to the  
23 Decree, which is attached for the Court's convenience.  
24

1  
2 The pivotal section of the Amendments to the Decree (page 21 line 17) reads as  
3 follows:

4 The title to the home shall be transferred to the husband in "as  
5 is" condition and he shall forthwith cause the wife's name to  
6 be removed from the underlying mortgage, freeing her from  
7 responsibility therefrom, and in any event he shall hold her  
8 harmless from such obligations, including but not limited to  
any costs, attorney fees and any other loss or damage as a  
result of any default on the obligation.

9 Petitioner claims that I did not "forthwith" cause wife's name to be removed from  
10 the underlying mortgage" and therefore I defaulted on a condition precedent to having the  
11 aforementioned judgments deemed satisfied. This is an opportunistic interpretation of  
12 the Amendments to the Decree.

13 The relevant timeline is as follows:

14 **February 1, 2007.** The original Decree of Dissolution of Marriage is  
15 entered.

16 **December 9, 2008.** The Amendment to the Decree is entered.

17 **December 2009**

18 I attempt to take wife's name off the mortgage on the former marital  
19 residence by furthering the application to refinance the mortgage that I had  
20 started before December. Elizabeth and her attorney were aware of these  
21 efforts and Elizabeth had been in direct contact with the mortgagee, First  
22 Horizon. Elizabeth and I had been told that removing Elizabeth's name  
23 from liability would not be a problem. However, I needed her to  
communicate in writing her request to be removed from liability and I  
needed title to the home transferred to me as set forth in the Amendments  
to the Decree.

1 I thought the quit claim deed would come to me right away. It did not.  
2 After numerous requests to Elizabeth seeking delivery of the quit claim  
3 deed, I sent an email to her dated January 11, 2009 (attached). By this  
4 time matters were urgent. I was hoping to close within a week.

5 Petitioner did not deliver the deed in a timely way and her delay prejudiced  
6 my ability to remove her name from the mortgage. Petitioner finally  
7 delivered a defective deed to me on May 5, 2009. However she failed to  
8 provide me with the excise tax affidavit until about August 1<sup>st</sup>, approximately  
9 75 days later. I quickly recorded the deed that turned out to be defective  
10 on August 3, 2009.

11 I also sought a note in writing from Petitioner whereby she expressly asks to  
12 be released from the mortgage as required by First Horizon. The writing  
13 provided by Petitioner at the request of First Horizon broker was deficient in  
14 that it did not request to be removed from the mortgage. (See attached  
15 handwritten note.)

16 **August 3, 2009.** I record the (defective) deed.

17 The deed did not transfer of title to me as required by the language in the  
18 Amended Decree. After recording the original was sent to Mr.  
19 Horenstein per the instructions on the upper left corner of the deed. The  
20 fact that the deed did not transfer title to me was unknown to me and could  
21 not be known to me since the recording office did not communicate with me.  
22 I did not discover the fact that the deed was defective until sometime in  
23 April, 2011 (almost two years later) when processing the sale.  
24 Respondent's name has been on title to the property until a new deed was  
25 generated. See attached documents.

**April 6, 2011.**

Petitioner authorizes the correction of her earlier deed and the recording of  
same. See Attached email from Mr. Horenstein's office.

**May 4, 2011.**

A corrected deed is prepared and recorded on May 4, 2011. For the first  
time title to the home is transferred to me as required in the Amendment to  
the Decree.

**June, 2011.**

1  
2 I paid off the mortgage for which Petitioner was jointly obligated to pay. I  
3 cause the wife's name to be removed from the underlying mortgage" within  
4 weeks of title being transferred to me.

5 The term '*forthwith*' in the context of the Amended Decree clearly relates to the  
6 covenant in the first part of the sentence. Both of our respective covenants are in the  
7 same sentence. Petitioner's duty to transfer title to me is expressed first. Therefore,  
8 the term '*forthwith*' in the latter half of the sentence relates to my performing my obligation  
9 immediately after Petitioner transfers title to the home to me.

10 As background the court should know the following facts:

11 1. The 2007 Dissolution Decree provided the marital residence (again, the  
12 residence that just sold) was to be placed on the market and sold. The Decree also  
13 provided that Petitioner remain in occupancy of the home and I pay the monthly mortgage  
14 payments, the taxes and insurance until the property was sold. These terms  
15 under-motivated Petitioner to sell the home. Our mutually selected realtor obtained an  
16 attractive offer to purchase the property from us for \$1,600,000 in June of 2007. I  
17 accepted the offer. Petitioner countered and caused us to lose that sale. The home  
18 languished on the market. Finally, in the summer of 2008 we accepted an offer to  
19 purchase for \$1,400,000 but the deal fell through. Since that time we did not get any  
20 other offers, attractive or otherwise.

21 2. Mr. Horenstein prepared the Amendments to the Decree. I reviewed it at  
22 his office and was unrepresented at the time. I believed and still believe that Petitioner  
23 had a duty under the terms of the document to tender a quit claim deed to me right away  
24

1 so I could pursue a refinancing of the home or otherwise remove Elizabeth from liability.

2 3. I took steps immediately to remove Petitioner from liability on the mortgage.  
3 The market was changing and time was of the essence. Petitioner signed the (defective)  
4 deed on January 9, 2009, thirty days after entry of the Amendments to the Decree. This  
5 was not timely but I still had a chance to refinance and remove Petitioner from liability on  
6 the mortgage. However, Petitioner withheld providing me with a quit claim deed until  
7 months later. She did not deliver the (defective) deed to me until May 5, 2009. As set  
8 forth above, I could not record the deed as she failed to give me the required excise tax  
9 affidavit. I recorded the deed on August 3<sup>rd</sup>, as soon as I received the excise tax  
10 affidavit, which was about 75 days after Elizabeth had given me quit claim deed.  
11 (Interestingly, she had signed both documents earlier in January!) By August all my  
12 options for removing Petitioner from the mortgage were no longer available. The real  
13 estate lending market changed overnight. The mortgagee that was working with me sold  
14 the mortgage and the successor in interest would not work with me.  
15

16 4. I paid every mortgage payment on time. Petitioner's creditworthiness was  
17 not affected by my inability to remove her name from liability on the mortgage. In fact it  
18 may have been enhanced due to the perfect payment record. Petitioner has not been  
19 prejudiced in any way from the inability to remove her name from liability on the mortgage.  
20 She had already purchased and was in occupancy of her new residence.  
21

22 5. Petitioner's taking the proceeds of sale at this time would be an unjust  
23 enrichment to her and a detriment to me. I desperately need those funds to pay loans I  
24

1 borrowed to pay the Court Ordered obligations I had to Petitioner.

2 6. I performed every other covenant in the Amendments to the Decree  
3 including payment of \$5,000 which was part payment of the judgments that were deemed  
4 satisfied - although Mr. Horenstein did not draft the agreement to say that. The  
5 judgments were forgiven in effect because of the consideration I delivered including the  
6 above mentioned \$5,000 and \$415,000 from my retirement. Petitioner did not have to  
7 contribute to the cost of sale. I even waived the 30-day waiting period to process the  
8 QDRO. The waiver allowed Petitioner to receive the benefit or our bargain faster and,  
9 unfortunately for me, empowered her to withhold giving me the deed in a timely manner.

10 7. Petitioner did not perform every covenant she was required to perform  
11 under the Amendments to the Decree. In addition to failing to timely deliver a deed and  
12 excise tax affidavit, she failed the requirement set forth on page 2, line 24 of the order to  
13 pay the utilities of the home related to her occupancy. Despite my requests that she do  
14 so, she has never paid the November HOA bill for \$315. There was a lien on the house  
15 when I assumed occupancy in April, 2009. She also did not pay the NW Natural gas  
16 utility for \$494.62 or the City of Camas water bill for \$226.

17 A judgment against me for \$1,575 was entered on July 19, 2010. I believe I paid  
18 this. However, as yet I cannot find proof. Understanding that the payer has the burden  
19 of proof I will concede this much if I cannot find and deliver proof of payment before the  
20 hearing in this matter.

21 I request attorney fees for having to make this motion. Petitioner's attempt to take

1 proceeds of sale based on satisfied judgments is untenable and intransigent.

2  
3 I declare under penalty of perjury for the laws of the State of Washington that this  
4 statement is true and correct.

5 Dated this 16 day of June, 2011.

6  
7   
8 JAMES BRIAN PARKER  
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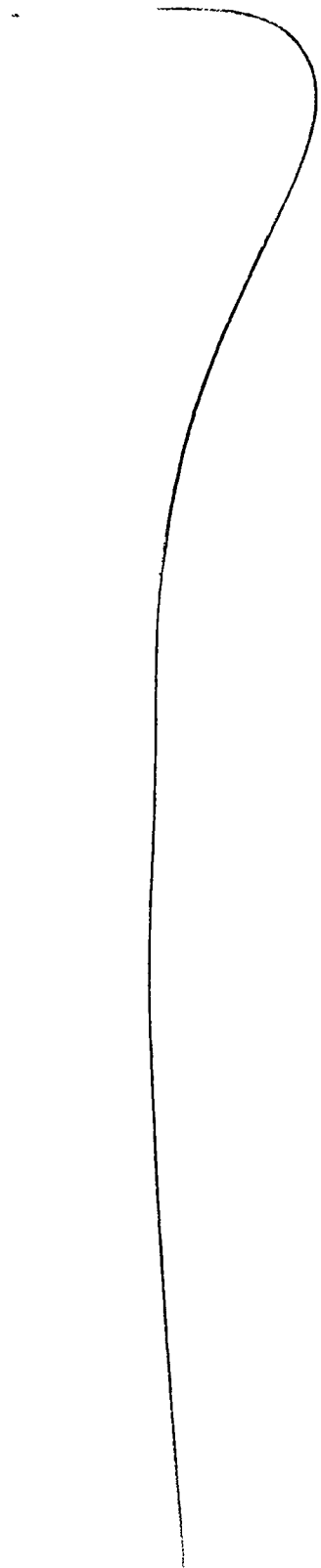
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### EXHIBITS

1. Amendment to Decree of Dissolution of Marriage and Order of Child Support;
2. January 11, 2009 Email to Petitioner regarding request for Quit Claim Deed
3. January 21, 2009 Email to attorney Horenstein regarding failure to receive Quit Claim Deed and loss of opportunity to refinance
4. Defective Quit Claim Deed executed January 9, 2009 but not delivered until May, 2009
5. April 14, 2009 Email from Petitioner evidencing intent to withhold Quit Claim Deed
6. Envelope in which Mrs. Parker mailed Quit Claim Deed mailed to Mr. Parker
7. Real Estate Excise Tax Affidavit – Delivered late July, 2009 (signed in January, 2009)
8. Schedule A from Fidelity National Title Company reflecting that defective Quit Claim Deed did not transfer title to Mr. Parker
9. Email dated April 6, 2011 from attorney Horenstein's office with remedy for defective Quit Claim Deed
10. Clark County Property Information – Recorded Document History
11. Unpaid utility billings from Petitioner, Ms. Parker
12. \$5,000 check paid by Mr. Parker in partial satisfactions of judgments noted in Amendments to Decree



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STATE  
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**FILED**

DEC 09 2008

Sherry W. Parker, Clerk, Clark Co.

**Superior Court of Washington County of Clark**

**In re the Marriage of:**

ELIZABETH MARIE PARKER,

**Petitioner,**

**and**

JAMES BRIAN PARKER,

**Respondent.**

No. 05-3-01721-7

**Amendment to Decree of Dissolution  
Of Marriage and Order of Child  
Support**

**Clerk's Action Required**

**I. Judgment/Order Summaries**

**1.1 Restraining Order Summary:**

Does not apply.

**1.2 Real Property Judgment Summary:**

Parcel #110186-956

**1.3 Money Judgment Summary:**

Does not apply.

***End of Summaries***

**II. Basis**

Findings of Fact and Conclusions of Law have been entered in this case.

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**III. Decree**

This matter having come before the court pursuant to the stipulation of the parties as evidence by the signatures affixed hereto, and the court having considered the records and files herein, now, therefore, it is hereby ordered, adjudged and decreed:

**The following amends the Decree of Dissolution of Marriage and Order of Child Support dated February 1, 2007 where inconsistent therewith. In all other respects the Decree of Dissolution of Marriage and Order of Child Support remain in full force and effect:**

The wife has the following judgments against the husband that have not been satisfied:

March 14, 2008	\$1,000.00
May 14, 2008	\$3,500.00
October 31, 2008	\$12,895.00



In the event the husband complies with all of the terms of this Amendment to Decree of Dissolution of Marriage and Order of Child Support, these judgments will be deemed satisfied. In the event the husband does not comply with all of the terms of this Amendment to Decree of Dissolution of Marriage and Order of Child Support, the judgments will be reinstated pursuant to a motion on the court's motion docket.

The title to the home shall be transferred to the husband in "as is" condition and he shall forthwith cause the wife's name to be removed from the underlying mortgage, freeing her from responsibility therefrom, and in any event he shall hold her harmless from such obligations, including but not limited to any costs, attorneys fees and any other loss or damage as a result of any default on the obligation. The wife shall be allowed to reside in the home until she receives the 401(k) funds referenced below and completes the remodel of a residence she purchased subsequent to the entry of the Decree of Dissolution of Marriage. While the wife is occupying the home, the husband shall be responsible to pay for the mortgage principal, interest, taxes and insurance for the home and the wife shall pay for the utilities.

In exchange for transferring her ownership in the home to the husband and transferring all of her equity to him, the wife shall receive, from the husband's 401(k)

Decree (DCD) (DCLSP) (DCINMG) - Page 2 of 4  
WPF DR 04.0400 Mandatory (6/2008) - RCW 26.09.030; .040; .070 (3)  
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The Scott Horenstein Law Firm, PLLC  
900 Washington St., Suite 1020  
Vancouver, WA 98660  
Phone: 360-699-1530  
Fax: 360-693-2911

1 account with Cadence Design Systems, Inc, the sum of \$415,000.00, such transfer to  
2 be made pursuant to QDRO'S. The parties waive the 30 day waiting period to process  
3 the QDRO and will so instruct the plan administrator. They shall take all steps  
4 necessary to implement the waiver and will sign all documents required for the same  
5 within two days of receiving them. The amount to be transferred to an account for  
6 Elizabeth Parker pursuant to the QDRO shall be invested 100% in the JPM Prime MM-  
7 Inst (JINXX) fund. In the event there is not \$415,000.00 in the account at the time of the  
8 transfer, the wife shall receive a judgment against the husband for the deficiency, to be  
entered on the court's motion docket at the request of the wife.

9 The husband shall pay the wife the sum of \$5,000.00, receipt of which is hereby  
10 acknowledged.

11 The wife shall leave the following personal property in the home for the husband:  
12 hot tub, the sound system components, including the Denon receiver in the family  
13 room cabinets, the plasma television in the master bedroom and the built in appliances,  
14 except the upstairs washer and dryer and the refrigerator in the laundry room. The wife  
shall receive the barbeque that is currently in his possession.

15 The husband's obligation to pay maintenance pursuant to the terms of the  
16 Decree of Dissolution of Marriage is suspended until the month during which the wife  
17 moves from the residence described above, at which time it shall resume under the  
18 same terms in the Decree of Dissolution of Marriage, including the duration of the  
19 maintenance. The maintenance shall be prorated for that portion of the month that she  
20 is in the new home from the first day she is in the new home. The husband will not be  
21 required to make up the maintenance for the suspended months, but he will owe an  
additional three months from the initial termination date of December, 2010 such that he  
will pay maintenance through the month of March, 2011.

22 The husband shall pay the sum of \$8,000.00 per year for four years to the wife  
23 for her use to defray some of the costs of the private schooling and tutoring for Jordan  
24 and Andrew. He shall make the payments in ten equal monthly payments, commencing  
on July 29, 2009 and paying through July of 2013, recognizing that he will make no

25 ///

1 ///  
2 ///  
3 ///

4 payment in May and June of each year, given that he will make ten equal payments per  
5 year. His obligation in this regard. Is considered part of his child support obligation.  
6 The parties recognize this contribution will only pay a portion of such expenses.

7 Dated: 12-9-08

  
8 Judge/Commissioner

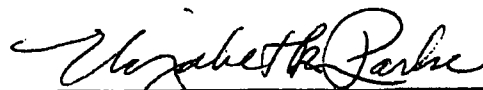
9  
10 Petitioner or petitioner's lawyer:  
11 A signature below is actual notice of this  
12 order.  
13 Presented by:

Respondent or respondent's lawyer:  
A signature below is actual notice of this  
order.  
Approved for entry:

14 

15 SCOTT J HORENSTEIN, WSBA #7864  
16 Of Attorneys for Petitioner

17   
18 JAMES BRIAN PARKER, Pro Se  
19 Respondent

20 

21 ELIZABETH MARIE PARKER  
22 Petitioner  
23  
24  
25

**Jim Parker**

---

**From:** Jim Parker [jparker40@comcast.net]  
**Sent:** Sunday, January 11, 2009 12:07 PM  
**To:** 'liz parker'  
**Cc:** 'jparker@cadence.com'; 'jparker40@comcast.net'  
**Subject:** Quit claim deed  
  
**Categories:** Red Category

For settlement purposes only:

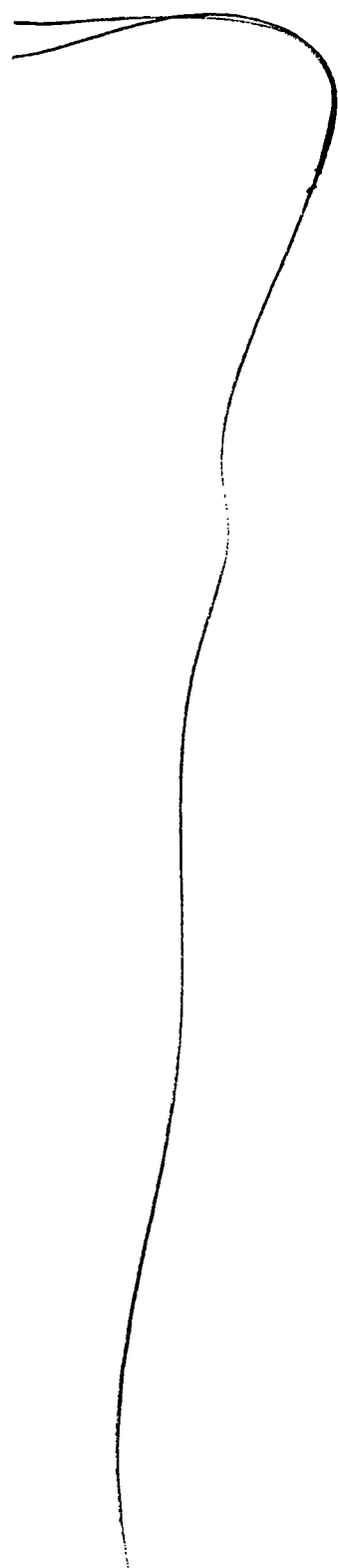
Liz,

I faxed the 30 day waiver, in good faith, to expedite you getting the 401K funds. In return you assured me and gave me your word that I would get an email from your attorney immediately and a "Quit Claim Deed" would be filed and I would be provided with a copy. I have not received either! You have mentioned that you now have a QCD and are hesitant to give me a copy. This is why I told you I did not want to sign and fax the waiver because you cannot be trusted.

I need to know if you are going to provide me a copy of the quit claim deed today before I leave town tomorrow?

---

*Shows Request  
for QCD*



## Howard Marshack Law Firm

---

**Subject:** FW: email to Scott Horenstein

---

**From:** Jim Parker [<mailto:jparker@cadence.com>]

**Sent:** Wednesday, January 21, 2009 4:58 PM

**To:** Scott Horenstein

**Cc:** [jparker40@comcast.net](mailto:jparker40@comcast.net)

**Subject:** Parker settlement agreement

Scott,

As part of this agreement I was suppose to receive a "quit claim deed" to the mortgage which I never received. You said I am obligated to remove your client from the mortgage which, at the time we signed this, I was advised by the mortgage company that all they needed was a written request signed and dated by your client. This needed to be done by your client and she didn't bother to make this request until over a month later. Since then, First Horizon who owned the note on the house sold the mortgage to Met Life. I spent several hours trying to resolve this issue, in good faith, but was finally told by Met Life they won't take your clients name off the mortgage.

I was also in parallel trying to refinance the mortgage and scheduled to close last Friday January 16<sup>th</sup>. Because I didn't have the "quit claim deed" on the property, I lost my opportunity to refinance. The process had to be re-started and now my debt to income ratio is too high and US Bank is unable to give me a loan.

This contract has been breached and I would like the \$200,000.00 to immediately be paid back to the registry of the court.

Thanks for your cooperation,  
Jim Parker



**4590275 D**RecFee - \$54.00 Pages: 3 - SCOTT HORENSTEIN  
Clark County, WA 08/03/2009 04:05**RECORDING REQUESTED BY  
AND WHEN RECORDED RETURN TO:**SCOTT J. HORENSTEIN, Attorney  
The Scott Horenstein Law Firm, PLLC  
P.O. Box 61507  
Vancouver, WA 98666-1507

Real Estate Excise Tax

Ch. 11 Rev. Laws 1951

EXEMPT

Affd. # 4107 Date 7-3-09  
For details of tax paid see

Affd. # \_\_\_\_\_

Doug Lasher  
Clark County TreasurerBy SM  
Deputy**QUIT CLAIM DEED****Grantor:** Elizabeth Parker**Grantee:** James Parker**Abbreviated Legal:** LACAMAS SHORES PHASE 6C LOT 3 SUB**Assessor's Tax Parcel #**110186 956

THE GRANTOR, Elizabeth Parker, for valuable consideration, clear title, pursuant to an action for dissolution of marriage, conveys and quit claims to James Parker, the following-described real estate situated in the County of Clark, State of Washington, including any interest therein which GRANTOR may hereafter acquire:

Lot 3, LACAMAS SHORES PHASE 6C, according to the plat thereof, recorded in Volume "J" of Plats, at page ~~541~~ records of Clark County, Washington.

531

The Deed Covenant is attached as Exhibit "B" and incorporated herein by reference.

Dated this 9 day of January, 2009.

  
ELIZABETH PARKER

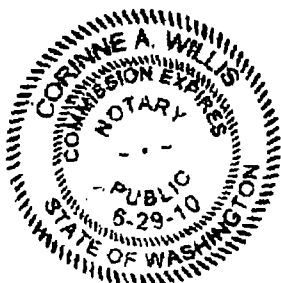
QUIT CLAIM DEED - 1

S:\Clients\24527\QUIT CLAIM DEED.doc

STATE OF WASHINGTON        )  
                                      ) ss.  
County of Clark             )

I certify that Elizabeth Parker appeared personally before me and that I know or have satisfactory evidence that she signed this instrument and acknowledged it to be her free and voluntary act for the uses and purposes mentioned in the instrument.

DATED this 9th day of January 2009.



Corinne A. Willis  
NOTARY PUBLIC FOR WASHINGTON  
My Commission Expires: 6-29-10

QUIT CLAIM DEED - 2  
S:\Clients\24527\QUIT CLAIM DEED.doc

**EXHIBIT "B"****DEED COVENANT FOR LACAMAS SHORES DIVISION 6C, LOT 3**

As a material part of the consideration supporting the transfer of that certain real property described in the attached Deed ("Subject Property") from the undersigned Grantor to the undersigned Grantee, Grantee does hereby covenant as follows:  
Potentially Hazardous Conditions:

1. Due to a proposed golf course development adjacent to and surrounding the Subject Property, Grantee acknowledges that there are certain physical hazards associated with close proximity to a golf course which may affect residency on the Subject Property and in the plat of Lacamas Shores and which include, without limitation, (a) noises associated with golf course activity including, without limitation, mower noises, sprinkler noises, miscellaneous equipment noises, personnel noises, golfers noises, and other associated noises, (b) real and personal property damage and bodily injury or death caused by the flight of errant golf balls and intrusion into the air space of the Subject Property, and (c) hazards associated with the use of chemicals such as fertilizers, pesticides, fungicides, herbicides and other chemicals for the maintenance of a golf course (collectively, "Golf Course Hazards and Uses").
2. Grantee hereby releases and holds Grantor, the Camas Meadows Golf Course, the Lacamas Shores Homeowners Association, their respective officers, directors, members, shareholders, employees, successors, representatives, agents and assigns harmless from all manner of action and actions, including suits, debts, claims, controversies, damages, demands and liabilities, including attorney's fees and costs which may arise out of, or are caused by or relate to the Golf Course Hazards and Uses. Notwithstanding the foregoing, this release and hold harmless shall not apply to the extent the above released parties are found grossly negligent with respect to the above matters.
3. The Deed Covenant created herein shall be appurtenant, shall touch and concern the Subject Property, shall run in perpetuity with the land and shall bind Grantee's, successors, assigns, heirs, executors and all persons claiming by, through or under Grantee.
4. If any suit or other proceeding (including appeals) arises out of this Deed Covenant, the substantially prevailing party as determined by the Court or in the proceeding, shall be entitled to recover its reasonable attorneys' fees and all costs and expenses incurred relative to such suit or proceeding from the substantially nonprevailing party.

From: [elizabeth.parker@live.com](mailto:elizabeth.parker@live.com)  
To: [jparker@cadence.com](mailto:jparker@cadence.com); [jparker@comcast.net](mailto:jparker@comcast.net)  
Subject: Compliance  
Date: Tue, 14 Apr 2009 07:24:22 -0800

Jim,

You are not paying maintenance and you have not removed me from the mortgage as you are required to do pursuant to the court order.

I have not sent you the Quit Claim Deed because it appeared that you were going back on the court ordered agreement to remove me from the mortgage and I did not want you to think, by sending the deed, that I agreed that you did not have to remove me from the mortgage.

As a sign of good faith, I am sending you the Quit Claim Deed. Please pay your delinquent maintenance now and show me proof that you have removed me from the mortgage.

Liz

---

NW 22<sup>ND</sup> Ave  
Camas, WA 98607

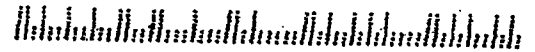
PORTLAND OR 972

05 MAY 2009 PM 4 L



Jim Parker  
3015 NW Lacamas Dr.  
Camas, WA 98607

98607+5145



Envelope QCD came in!



PLEASE TYPE OR PRINT

## REAL ESTATE EXCISE TAX AFFIDAVIT

CHAPTER 82.45 RCW - CHAPTER 458-61A WAC

THIS AFFIDAVIT WILL NOT BE ACCEPTED UNLESS ALL AREAS ON ALL PAGES ARE FULLY COMPLETED

(See back of last page for instructions)

This form is your receipt  
when stamped by cashier.

<input type="checkbox"/> Check box if partial sale of property		<input type="checkbox"/> If multiple owners, list percentage of ownership next to name.	
Name <u>Elizabeth Parker</u>		Name <u>James Parker</u>	
Mailing Address <u>330 NW 22ND AVE</u>		Mailing Address <u>3015 NW LACAMAS DR</u>	
City/State/Zip <u>CAMAS, WA 98607</u>		City/State/Zip <u>CAMAS, WA 98607</u>	
Phone No. (including area code) _____		Phone No. (including area code) <u>360-904-1950</u>	
Send all property tax correspondence to: <input checked="" type="checkbox"/> Same as Buyer/Grantee		List all real and personal property tax parcel account numbers - check box if personal property	
Name _____		<u>110182 956</u> <input type="checkbox"/>	
Mailing Address _____		List assessed value(s) <u>\$1,629,700.00</u>	
City/State/Zip _____		_____ <input type="checkbox"/>	
Phone No. (including area code) _____		_____ <input type="checkbox"/>	

Street address of property: 3015 NW Lacamas Drive, Camas, WA

This property is located in ☐ unincorporated \_\_\_\_\_ County OR within ☒ city of CAMAS

☐ Check box if any of the listed parcels are being segregated from a larger parcel.

Legal description of property (if more space is needed, you may attach a separate sheet to each page of the affidavit)

Lot 3, LACAMAS SHORES PHASE 6C, according to the Plat thereof, recorded in Volume "J" of Plats, at Page 541 records of Clark County Washington

Select Land Use Code(s): <u>011</u>	List all personal property (tangible and intangible) included in selling price.
enter any additional codes: _____	_____
(See back of last page for instructions)	_____
Is this property exempt from property tax per chapter 84.36 RCW (nonprofit organization)? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	_____
Is this property designated as forest land per chapter 84.33 RCW? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	_____
Is this property classified as current use (open space, farm and agricultural, or timber) land per chapter 84.34? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	_____
Is this property receiving special valuation as historical property per chapter 84.26 RCW? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	_____
If any answers are yes, complete as instructed below.	If claiming an exemption, list WAC number and reason for exemption:
(1) NOTICE OF CONTINUANCE (FOREST LAND OR CURRENT USE) NEW OWNER(S): To continue the current designation as forest land or classification as current use (open space, farm and agriculture, or timber) land, you must sign on (3) below. The county assessor must then determine if the land transferred continues to qualify and will indicate by signing below. If the land no longer qualifies or you do not wish to continue the designation or classification, it will be removed and the compensating or additional taxes will be due and payable by the seller or transferor at the time of sale. (RCW 84.33.140 or RCW 84.34.108). Prior to signing (3) below, you may contact your local county assessor for more information.	WAC No. (Section/Subsection) <u>458.01A.203(1)</u>
This land <input type="checkbox"/> does <input checked="" type="checkbox"/> does not qualify for continuance.	Reason for exemption <u>Dissolution of Marriage Clark Co Cause # 05-3-01721-9</u>
(2) NOTICE OF COMPLIANCE (HISTORIC PROPERTY) NEW OWNER(S): To continue special valuation as historic property, sign (3) below. If the new owner(s) does not wish to continue, all additional tax calculated pursuant to chapter 84.26 RCW, shall be due and payable by the seller or transferor at the time of sale.	Type of Document <u>Quit Claim Deed</u>
(3) OWNER(S) SIGNATURE	Date of Document <u>1/9/2009</u>
PRINT NAME	Gross Selling Price \$ _____
	*Personal Property (deduct) \$ _____
	Exemption Claimed (deduct) \$ _____
	Taxable Selling Price \$ _____
	Excise Tax : State \$ _____
	Local \$ _____
	*Delinquent Interest: State \$ _____
	Local \$ _____
	*Delinquent Penalty \$ _____
	Subtotal \$ _____
	*State Technology Fee \$ _____ 5.00
	*Affidavit Processing Fee \$ _____
	Total Due \$ _____
	A MINIMUM OF \$10.00 IS DUE IN FEE(S) AND/OR TAX
	*SEE INSTRUCTIONS

I CERTIFY UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

Signature of Grantor or Grantor's Agent <u>Elizabeth Parker</u>	Signature of Grantee or Grantee's Agent <u>James Parker</u>
Name (print) <u>ELIZABETH PARKER</u>	Name (print) <u>JAMES PARKER</u>
Date & city of signing: <u>1/9/09 CAMAS</u>	Date & city of signing: <u>7-7-09 CAMAS</u>

Perjury: Perjury is a class C felony which is punishable by imprisonment in the state correctional institution for a maximum term of not more than five years, or by a fine in an amount fixed by the court of not more than five thousand dollars (\$5,000.00), or by both imprisonment and fine (RCW 9A.20.020 (1C)).

REV 84 0001a (02/13/07)

THIS SPACE - TREASURER'S USE ONLY

James Parker  
7-7-09  
sm

641017  
COUNTY TREASURER

10.00

FIDELITY NATIONAL TITLE COMPANY

COMMITMENT NO.: 612813643

## SCHEDULE A

ORDER NO. 612813643

ISSUING OFFICE:	FOR SETTLEMENT INQUIRIES, CONTACT:
Title Officer: Ardy Ogan Fidelity National Title Company 500 E. Broadway, Suite 425 Vancouver, WA 98660 Phone: (360)449-6381 Fax: (360)750-3693 Main Phone: (360)750-3686 Email: ardy.ogan@fnf.com	Escrow Officer: Shelly Farra Fidelity National Title Company 16500 SE 15th St., #100 Vancouver, WA 98683 Phone: (360)449-6384 Fax: (360)256-1800 Main Phone: (360)256-1400 Email: shelly.farra@fnf.com

1. EFFECTIVE DATE: March 11, 2011, 12:00AM

2. POLICY OR (POLICIES) TO BE ISSUED:

a. ALTA Homeowner's Policy of Title Insurance 2008

Proposed Insured: Gerald G. Henderson and Carol W. Henderson, presumptively subject to the community interest of their spouses, if married

Policy Amount: \$1,625,000.00

Premium: \$ 3,819.00

Tax: \$ 313.16

Rate: Homeowner's

Total: \$ 4,132.16

b. ALTA Loan Policy 2006

Proposed Insured: Bank of the West

Policy Amount: \$1,160,000.00

Premium: \$ 1,156.00

Tax: \$ 94.79

Rate: Lender Simultaneous Extended

Total: \$ 1,250.79

3. THE ESTATE OR INTEREST IN THE LAND DESCRIBED OR REFERRED TO IN THIS COMMITMENT AND COVERED HEREIN IS:

Fee Simple

4. TITLE TO THE ESTATE OR INTEREST IN SAID LAND IS AT THE EFFECTIVE DATE HEREOF VESTED IN:

James B. Parker, as his separate estate and Elizabeth Parker, as her separate estate

5. THE LAND REFERRED TO IN THIS COMMITMENT IS DESCRIBED AS FOLLOWS:

For APN/Parcel ID(s): 110186-956

Lot(s) 3, Lacamas Shores Phase 6C, according to the plat thereof, recorded in Volume J of Plats, Page 531, records of Clark County, Washington.

END OF SCHEDULE A

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FIDELITY NATIONAL TITLE COMPANY OF  
WASHINGTON, INC.

COMMITMENT NO.: 612813643

**SCHEDULE B**  
(continued)

Note: According to the county records, the property assessment information is:

Assessed Total: \$1,141,487.00  
Millage Rate: 16.0765288995  
Location Code: 0602

Note: The only conveyance(s) affecting said Land, which recorded within 24 months of the date of this report, are as follows:

Grantor: Elizabeth Parker  
Grantee: James Parker  
Recording Date: August 3, 2009  
Recording No.: 4590275  
Note: said quit Claim Deed contains an erroneous legal description

Note: FOR INFORMATIONAL PURPOSES ONLY:

The following may be used as an abbreviated legal description on the documents to be recorded, per Amended RCW 65.04.045. Said abbreviated legal description is not a substitute for a complete legal description within the body of the document:

Tax Account No.: 110186-956  
Lot 3 Lacamas Shores Phase 6C Volume J Page 531

END OF NOTES

END OF SCHEDULE B

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**Lang, Jennifer**

---

**From:** Katie Sharkey [Katie@horensteinlaw.com]  
**Sent:** Wednesday, April 06, 2011 1:05 PM  
**To:** Lang, Jennifer  
**Subject:** Parker

Jennifer:

Please go ahead and change the page number from page 541 to 531 on the legal description.

Thank you.

Katie

KATIE SHARKEY  
Legal Assistant to Scott Horenstein  
The Scott Horenstein Law Firm, PLLC  
900 Washington Street, Suite 1020  
Vancouver, WA 98660

[katie@horensteinlaw.com](mailto:katie@horensteinlaw.com)

(360) 699-1530 - Office  
(360) 693-2911 - Fax

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4/6/2011

RETURN ADDRESS

Scott J. Horenstein, attorney  
PO Box 61507  
Vancouver, WA 98666-1507

Document Title(s):  
Quit Claim Deed

Order Number:

Reference Number(s) of related documents:  
4590275

Grantor(s): (Last name, First name and Middle Initial)  
Parker, Elizabeth

Grantee(s): (Last name, First name and Middle Initial)  
Parker, James

Trustee:  
\_\_\_\_\_

Legal Description: (abbreviated form: i.e. lot, block, plat or section township, range, quarter/quarter)  
Lot 3, Lacamas Shores Phase 6C Vol J Pg 531

Assessor's Property Tax Parcel/Account Number:  
110186-956

THIS DOCUMENT IS BEING RE-RECORDED TO CORRECT THE PAGE NUMBER IN THE  
LEGAL DESCRIPTION. PREVIOUSLY RECORDED AUGUST 3, 2009 AF# 4590275


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**Land Records**

Property Info Center  
GIS MapsOnline  
Subdivision Browser  
Quarter Sections  
Auditor Records

## Clark County Property Information Recorded Document History

**Account No:** 110186956**Property Type:** Real**Property Status:** Active **Tax Status:** Regular**Site Address:** 3015 NW LACAMAS DR, CAMAS, 98607 ([Situa Addresses](#))**Abbreviated Legal Description:** LACAMAS SHORES PHASE 6C LOT 3 SUB 99**Demographics**

Socioeconomic Data  
Census 2010 Profiles

**GIS Programs**

Index of Atlas Maps  
GIS Metadata  
GIS Training  
Annexation Tracker

**Storefront**

Digital Data  
Applications  
Publications  
Printed Maps  
Custom Maps  
Photography  
Developer's Packet

**Reports**

Vacant Lands

**Contacts**

Staff List  
Office Location

Account	Building	Environmental	Taxes	Documents	Permits	Sales Search	Maps Online	New Search
<b>Auditor documents</b>								
Number	Date	Type	Recorded By	Grantor(s)	Grantee(s)	Exclse		
4761716	May 04, 2011	D	FIDELITY NATIONAL TITLE	PARKER ELIZABETH,	PARKER JAMES,	664344		
						641017		
4761717	May 04, 2011	D	FIDELITY NATIONAL TITLE	PARKER JAMES B,	HENDERSON GERALD G TRUSTEE,	664340		
4761718	May 04, 2011	DT	FIDELITY NATIONAL TITLE	HENDERSON GERALD G TRUSTEE,	BANK OF THE WEST, FIRST AMERICAN			
4672206	Jun 11, 2010	WVR	LACAMAS SHORES HOA	ASSOCIATION,	PARKER JAMES,			
4590275	Aug 03, 2009	D	SCOTT HORENSTEIN	PARKER ELIZABETH,	PARKER JAMES,	641017		
4558655	May 07, 2009	L	LACAMAS SHORES HOA	PARKER JAMES, PARKER ELIZABETH,	LACAMAS SHORES HOA,			
3783523	Feb 02, 2004	SL	LEVY & ASSOCIATES	MESHER SUPPLY CO,	JIMS PLUMBING, PARKER JAMES B,			
					PARKER ELIZABETH, NORTHRIDGE			
					CUSTOM HOMES,			
3634512	May 07, 2003	L	MESHER SUPPLY CO	PARKER JAMES B, PARKER ELIZABETH, JIMS PLUMBING,	MESHER SUPPLY CO,			
3442027	Mar 22, 2002	DT	FIRST AMERICAN TITLE	PARKER JAMES B, PARKER ELIZABETH,	FIRST HORIZON CORP, FIRST AMERICAN TITLE CO,			
3213851	Apr 26, 2000	D	CHARTER TITLE	SHIPLER THOMAS J,	PARKER JAMES B, PARKER ELIZABETH,	462775		
3055205	Jan 19, 1999	D	CHARTER TITLE	SHIPLER BETTY D,	SHIPLER THOMAS J,	441891		

If you have any questions concerning the data on this page, please contact Clark County Auditor's Office. Main Phone: (360) 397-2208, Email: [auditor@clark.wa.gov](mailto:auditor@clark.wa.gov)

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[\[Legal Stuff\]](#)  
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RCW 42.56.070(9) prohibits releasing and/or using lists of individuals gathered from this site for commercial purposes.

Clark County, Geographic Information System (GIS): Bob Pool, Manager  
Street Address: 1300 Franklin Street, 2nd Floor, Vancouver, WA 98666-5000  
Mailing Address: P.O. Box 5000, Vancouver, WA 98666-5000  
Main phone: (360) 397-2002 | FAX: (360) 397-2046

**Storefront Hours:**

Mon, Tue, Thurs: 8:00 a.m. - 4:00 p.m.

Wed: 9:00 a.m. - 4:00 p.m.

Friday: Closed.

Email: [themapstore@clark.wa.gov](mailto:themapstore@clark.wa.gov)

Responsible Elected Official: [Board of Clark County Commissioners](#)

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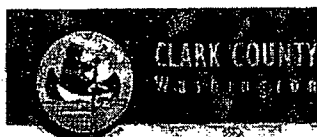
File Location: <http://gis.clark.wa.gov/gishome/Property/?action=DEEDS&account=110186956>

For questions or comments regarding the Clark County Web site: [Webmaster@clark.wa.gov](mailto:Webmaster@clark.wa.gov)

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Custom Maps  
Photography  
Developer's Packet

**Reports**

Vacant Lands

**Contacts**

Staff List  
Office Location

**Auditor Document Detail**

<b>Document</b>	4558655
<b>Title</b>	L — LIEN
<b>Grantor(s)</b>	PARKER JAMES, PARKER ELIZABETH,
<b>Grantee(s)</b>	LACAMAS SHORES HOA,
<b>Parcel(s)</b>	<a href="#">110186956</a>
<b>Excise No.</b>	
<b>Date Recorded</b>	May 07, 2009
<b>Recorded By</b>	LACAMAS SHORES HOA
<b>View Excise</b>	
<b>Related Document(s)</b>	<a href="#">4672206</a>



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**Clark County, Geographic Information System (GIS): Bob Pool, Manager**

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Main phone: (360) 397-2002 | FAX: (360) 397-2046

**Storefront Hours:**

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Wed: 9:00 a.m. - 4:00 p.m.

Friday: Closed.

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✓ Track Your Expenses...			TAX DEDUCTIBLE ITEM #
<input type="checkbox"/> Mortgage / Rent	<input type="checkbox"/> Transportation	<input type="checkbox"/> Entertainment & Travel	DO NOT USE FOR REORDERING 1115
<input type="checkbox"/> Gas / Electric	<input type="checkbox"/> Credit Card	<input type="checkbox"/> Medical / Dental	
<input type="checkbox"/> Telephone	<input type="checkbox"/> Taxes	<input type="checkbox"/> Dependent Care	
<input type="checkbox"/> Food	<input type="checkbox"/> Insurance (Life, Home, Auto)	<input type="checkbox"/> Savings & Investment	
<input type="checkbox"/> Clothing	<input type="checkbox"/> Home Improvement (Maintenance, Repairs)	<input type="checkbox"/> Other	
<p><i>Life Insurance</i> <i>Jim Thruout out of</i></p> <p>11-24-08</p>			<p>BAL FORD</p> <p>THIS PAYMENT 5.00</p> <p>BALANCE</p> <p>OTHER</p> <p>BAL FORD</p>
<p>Here's How:</p> <ul style="list-style-type: none"> <li>• Carry balance forward</li> <li>• Check type of expense</li> <li>• Add details on memo line</li> <li>• Retain duplicates in Debit Check box</li> </ul>			
<p>Memo <i>Back Support</i></p>			<p>NOT NEGOTIABLE</p>

## **APPENDIX “B”**



**FILED**  
AUG 26 2011  
11:43 AM  
Scott G. Weber, Clerk, Clark Co.

**SUPERIOR COURT OF WASHINGTON  
COUNTY OF CLARK**

**In re the Marriage of:**

ELIZABETH MARIE PARKER,

No. 05-3-01721-7

**Petitioner,**

**and**

**FINDINGS OF FACT AND  
CONCLUSIONS OF LAW AND  
ORDER AND JUDGMENT**

JAMES BRIAN PARKER,

11-9-05305-8

**Respondent.**

**I. JUDGMENT**

**1.1 Judgment Summary**

Judgment summary is set forth below.

A.	Judgment Creditor:	ELIZABETH PARKER	
B.	Judgment Debtor:	JAMES PARKER	
C.	Principal judgment amount		\$18,970
D.	Interest to date of Judgment		\$5,803.89
E.	Attorney fees		\$2,000
F.	Costs		\$
G.	Other recovery amount		\$
H.	Principal judgment shall bear interest at 12% per annum		
I.	Attorney fees, costs and other recovery amounts shall bear interest at 12% per annum		
J.	Attorney for Judgment Creditor:	SCOTT J. HORENSTEIN	
K.	Attorney for Judgment Debtor:	HOWARD MARSHACK	
L.	Other:		

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## II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

THIS MATTER having come before the Court pursuant to the Respondent's Motion and Declaration Authorizing Release of Funds and the Petitioner's Motion for Entry of Judgment, the Court having heard this matter on two separate occasions, June 24, 2011 and July 17, 2011, on its regularly scheduled Motion docket, and having decided the need to hear live testimony, the Court having heard live testimony on August 8, 2011 from the parties and from Emily Mason of Prestige Mortgage, now, therefore, the Court makes the following FINDINGS OF FACT:

1. The parties executed an Amendment to Decree of Dissolution of Marriage on December 9, 2008, and the same was approved by the Court.

2. In relevant part, that Amendment to Decree of Dissolution of Marriage required the Respondent to forthwith relieve the Petitioner from the underlying mortgage on their family home. The Amendment to Decree of Dissolution of Marriage required to Petitioner to convey title to the home to the Respondent. In consideration for being relieved of the mortgage obligation, and other valuable consideration, the Petitioner forgave the Respondent from paying a judgment dated March 14, 2008 in the principal amount of \$1,000, a judgment entered on May 14, 2008 in the principal amount of \$3,500, and a judgment entered on October 3, 2008 in the principal amount of \$12,895. The Amendment to the Decree of Dissolution of Marriage provides that in the event the Respondent did not forthwith relieve the Petitioner from her obligation on the home mortgage, the above-referenced judgments should be reinstated.

3. While the Respondent claims that he had secured refinancing for the above-referenced mortgage, the Petitioner was not effectively notified of that fact in such a fashion that would cause her to timely execute a Quit Claim Deed to the property, allowing the refinance to close. The Petitioner should not have been expected to deliver a Quit Claim Deed to the Respondent without some sort of mechanism to insure the simultaneous release of her obligation on the mortgage, such as by deliver of the deed to an escrow agent.

4. In fact, the Petitioner did deliver a Quit Claim Deed to the Respondent in April 2009, which was followed later by the excise tax affidavit. The Deed was recorded

1 in July 2009. However, by then, the Respondent's opportunity to remove the Petitioner  
2 from the mortgage liability had passed. The Petitioner was not relieved of the mortgage  
3 until June 2011 when the Respondent sold the home and paid off the mortgage from the  
4 proceeds of the sale.

5 5. As between the parties, the Respondent had a duty to make certain that a  
6 Quit Claim Deed could be delivered in a fashion that also resulted in the simultaneous  
7 relief from the mortgage for the Petitioner. Despite his attempts to do that, he failed.

8 Based on the foregoing FINDINGS OF FACT, the Court enters the following  
9 CONCLUSIONS OF LAW:

10 1. The Court has jurisdiction over the parties and over the subject matter.

11 2. The Respondent had a duty to forthwith relieve the Petitioner from the  
12 mortgage on their family home, pursuant to the December 9, 2008 Amendment to  
13 Decree of Dissolution of Marriage and despite his attempts to do that he failed to do so  
14 in a fashion that ensured the Petitioner that if she provided a Quit Claim Deed to the  
15 property, she would be simultaneously relieved from the underlying mortgage.

16 3. The Respondent had the primary duty to make certain that the mortgage  
17 relief was done simultaneously with the delivery of the Quit Claim Deed.

18 4. Because the Respondent failed to comply with the terms of the  
19 Amendment to the Decree of Dissolution of Marriage and forthwith relieve the Petitioner  
20 from her duty to pay the mortgage, the provision of the Amendment to the Decree of  
21 Dissolution of Marriage reinstating the judgments cited in the Findings of Fact should be  
22 reinstated in their principal amount plus interest from the original date of entry of the  
23 judgments.

24 5. The principal amount owed the Petitioner is \$18,970 and the interest is  
25 \$5,803.89.

6. All funds held by Fidelity National Title in escrow in the name of James  
Parker up to the amount of the judgment contained herein shall be tendered by check  
made out to Scott J. Horenstein and Elizabeth Parker, jointly.

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\$3000-

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**Judge/Commissioner**

ented by:

SCOTT HORENSTEIN, WSBA #7864  
Of Attorneys for Petitioner

approved and consent to entry granted by:

HOWARD MARSHACK, WSBA #13762  
Of Attorneys for Respondent

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6 IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON  
7 DIVISION II  
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9 In re the Marriage of:

10 JAMES BRIAN PARKER,

11 Appellant,

12 and

13 ELIZABETH MARIE PARKER,

14 Respondent.

NO. 42629-3-II

CLARK COUNTY SUPERIOR COURT  
CAUSE NO. 05-3-01721-7

DECLARATION OF MAILING

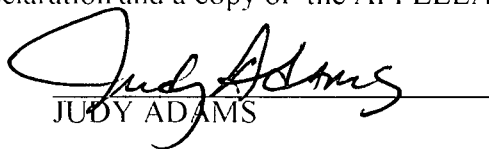
15  
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17 I, Judy Adams declare:

18 That I am a citizen of the United States of America; that I am over the age of 21 years,  
19 not a party to the above-entitled action and competent to be a witness therein; that on the 4<sup>th</sup> day  
20 of April, 2012 declarant deposited in the mails of the United States of America properly stamped  
21 and addressed envelopes directed to the following named individuals, to-wit:

22 Mr. David Ponzoha  
23 Division II Court of Appeals  
24 950 Broadway, Suite 300  
Tacoma, Washington 98402

25 Mr. Scott Horenstein *by hand delivery*  
26 Attorney at Law  
900 Washington Street, Suite 1020  
Vancouver, WA 98660

27 said envelope containing a copy of this declaration and a copy of the APPELLANT'S BRIEF.

28  
  
JUDY ADAMS